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IN THE

Supreme Court of the United States

OCTOBER TERM, 1966

No. 70

ALITALIA-LINEE AEREE ITALIANE, S.p.A.,

Petitioner,

—v.—

JOHN LISI, *et al.*,

Respondents.

RESPONSE IN OPPOSITION TO TWO MOTIONS FOR LEAVE TO FILE BRIEFS *AMICUS CURIAE*

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IN THE

Supreme Court of the United States

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No. 1169

ALITALIA-LINEE AEREE ITALIANE, S.p.A.,

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—v.—

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Preliminary Note

The International Air Transport Association (IATA) and the Air Transport Association of America (ATA) have each made a motion for leave to file a brief *Amicus Curiae* on substantially the same grounds. In the interest of brevity the respondents are presenting this single opposing Response to both motions.

Introduction

The motions are made by two trade associations of commercial air carriers, which associations are engaged in advancing the commercial interests of their member airlines. The petitioner, Alitalia Airlines, is a member of IATA. Any suggestions in IATA's application tending to give itself the aura of a public body are misleading.

In fact IATA's attorneys appearing herein also represent various commercial air carriers and liability insurance companies, including TWA and Eastern Air Lines. It should be clear that these motions are motivated by private commercial interest and are not necessarily in the public interest.

The Motions Should Be Denied

It is respectfully submitted that the motions should be denied forthwith for the following additional reasons:

1. The motions do not set forth facts or questions of law that have not been presented by the Petition for a Writ of Certiorari, but merely repeat the Petitioner's arguments. It also may be noted that in successfully opposing a motion in the Court of Appeals below for leave to file an amicus brief, Alitalia alleged that the issues "will not involve the 'difficult legal questions' which were held to warrant intervention." In fact, the decision herein of the Court of Appeals determined a simple issue and merely held that the exculpatory provisions in a ticket delivered to a passenger must be in readable form within the purposes of the convention. The exaggerated stance of "dire consequences" taken by movants is more dramatic than real, particularly since the legibility of the ticket was since improved by order of the CAB in 1963 as observed by the court below at note 10 of its opinion. The issue has become virtually moot.

2. The movants fail to set forth any showing that the facts and issues will not be adequately presented by the highly experienced counsel for Alitalia, who have represented a number of other International air carriers for many years and are thoroughly familiar with industry background and procedures. The interests of the movants

to the extent they are coextensive with the interests of Alitalia will be adequately represented. Sheer numbers and unlimited resources can make no further contribution.

3. There has been no abrogation of any of the Convention's provisions, but merely a reasonable practical construction which incidentally produces a fair result and which cannot be said to be against the public interest.

4. Without the leave of this court as required by the rules, the movants have improperly submitted briefs on the main issues as part of their motions. It is respectfully submitted that these briefs should be stricken. The Response herein has not attempted to answer the briefs for the above reason.

CONCLUSION

Wherefore it is respectfully submitted that the motions be denied.

Respectfully submitted,

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